

## augustine, bruce

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**From:** augustine, bruce  
**Sent:** Wednesday, January 07, 2015 10:41 AM  
**To:** 'Dennis Yuen'; Stoltzfus, Robert  
**Cc:** Patrick O'Neill  
**Subject:** RE: PES - Philadelphia Refinery, Possible CD Violation?

No. I just read from your email where you said No 6. I guess I misunderstood what you were saying there. It's ok if they burn RFG and I'm relieved that's the case.

Bruce J. Augustine  
Senior Enforcement Officer  
USEPA Region III  
1650 Arch Street  
Mailcode: 3AP20  
Philadelphia, PA 19103  
(215) 814-2131

**From:** Dennis Yuen [mailto:Dennis.Yuen@phila.gov]  
**Sent:** Wednesday, January 07, 2015 10:34 AM  
**To:** augustine, bruce; Stoltzfus, Robert  
**Cc:** Patrick O'Neill  
**Subject:** RE: PES - Philadelphia Refinery, Possible CD Violation?

Bruce,

It was my understanding that 1332-H2 Heater burns "refinery gas." Is this the same as fuel oil?

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Dennis Yuen, Deputy City Solicitor  
City of Philadelphia Law Dept.  
1515 Arch Street, 16th Floor  
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Phone: 215-683-5173

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**From:** augustine, bruce [mailto:augustine.bruce@epa.gov]  
**Sent:** Tuesday, January 06, 2015 5:34 PM  
**To:** Dennis Yuen; Stoltzfus, Robert  
**Cc:** Patrick O'Neill  
**Subject:** RE: PES - Philadelphia Refinery, Possible CD Violation?

Dennis,

The main question I have is that why is Sunoco combusting fuel oil in this heater at all? I thought Para 37 restricted the burning of fuel oil in any covered combustion device upon entry of the CD. Heater 1332-H2 is listed as a covered unit in Appendix B. With regard to your original question, you're correct in that they cited the wrong paragraphs for stips. The flaring provisions in Para 56 would not cover these violations. Maybe we need to discuss this issue further.

Bruce J. Augustine  
Senior Enforcement Officer  
USEPA Region III

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**From:** Dennis Yuen [<mailto:Dennis.Yuen@phila.gov>]  
**Sent:** Wednesday, December 24, 2014 9:10 AM  
**To:** Stoltzfus, Robert  
**Cc:** Patrick O'Neill; augustine, bruce  
**Subject:** RE: PES - Philadelphia Refinery, Possible CD Violation?

This isn't an emergency per se. I expect this could wait until the new year. AMS still has to comment on the rest of the documents / written materials submitted by PES with respect to the NOV But, of course, sooner is better than later.

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**From:** Stoltzfus, Robert [<mailto:Stoltzfus.Robert@epa.gov>]  
**Sent:** Tuesday, December 23, 2014 5:08 PM  
**To:** Dennis Yuen  
**Cc:** Patrick O'Neill; augustine, bruce  
**Subject:** RE: PES - Philadelphia Refinery, Possible CD Violation?

Dennis,

Will do. However, I may not have an answer for you by the end of the year, given end-of-the-year schedules. How is that for your timing?

Bob

J. Robert Stoltzfus / US EPA, Region III / Office of Regional Counsel / Mail Code 3RC10 / 1650 Arch Street, Philadelphia, PA 19103 / 215-814-2695 / [stoltzfus.robert@epa.gov](mailto:stoltzfus.robert@epa.gov)

**From:** Dennis Yuen [<mailto:Dennis.Yuen@phila.gov>]  
**Sent:** Tuesday, December 23, 2014 4:24 PM  
**To:** Stoltzfus, Robert  
**Cc:** Patrick O'Neill; augustine, bruce  
**Subject:** RE: PES - Philadelphia Refinery, Possible CD Violation?

Bob,

That's fine. There is one other thing I would ask you check with your program folks about. PES has also claimed that violations No. 6 (fuel burned in 1332-H2 Heater contained H2S in excess of required limits) was a CD violation. In particular, they have suggested that CD Para. para. 56 and 139, referring to Acid Gas Flaring, applies. AMS's initial analysis indicates that this would be incorrect, in part because 1332-H2 Heater does not exhaust to a flare. Does EPA have an opinion on this?

Thanks,

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**From:** Stoltzfus, Robert [<mailto:Stoltzfus.Robert@epa.gov>]  
**Sent:** Tuesday, December 23, 2014 2:11 PM  
**To:** Dennis Yuen  
**Cc:** Patrick O'Neill; augustine, bruce  
**Subject:** RE: PES - Philadelphia Refinery, Possible CD Violation?

Dennis,

We would prefer to treat the violations as CD violations and proceed under its stipulated penalties provisions. We recognize that the penalty amount is relatively small but think that it is appropriate to document the CD violations and related penalties. Therefore, please prepare a stipulated penalty demand letter for us to review. Thanks.

If you have any questions, please let me know.

Bob

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**From:** Dennis Yuen [<mailto:Dennis.Yuen@phila.gov>]  
**Sent:** Tuesday, December 23, 2014 11:05 AM  
**To:** Stoltzfus, Robert  
**Cc:** Patrick O'Neill  
**Subject:** RE: PES - Philadelphia Refinery, Possible CD Violation?

Bob,

With regard to PES, AMS ended up issuing a NOV to them for various violations at the Philadelphia Refinery. A copy of that NOV, from October 2014, is attached to this email. During settlement discussions, PES alleged that the violations for failing to replace Charcoal Canisters in Charcoal Adsorber CD-002, within 24 hours (e.g. item 12 on the NOV) were CD violations. Upon reviewing the CD, there are indeed provisions governing the replacement of Charcoal Canisters (para. 69) and provisions for stipulated penalties in the amount of \$1000 per incident (para. 159).

Now, AMS and the City can go through the process and send PES a stipulated penalty demand under the CD. However, the amounts involved would be very small (e.g. total of \$2000 for two incidents). Do you know if EPA would want us to do this? Or would it be preferred that AMS treat this as a non-CD violation for penalty purposes?

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**From:** Stoltzfus, Robert [<mailto:Stoltzfus.Robert@epa.gov>]  
**Sent:** Wednesday, October 29, 2014 12:45 PM

**To:** Dennis Yuen  
**Subject:** RE: PES - LDAR

Thanks for the update Dennis.

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**From:** Dennis Yuen [<mailto:Dennis.Yuen@phila.gov>]  
**Sent:** Wednesday, October 29, 2014 11:07 AM  
**To:** Stoltzfus, Robert  
**Cc:** Patrick O'Neill  
**Subject:** RE: PES - LDAR

Bob,

We did discuss the matter with Bruce back on October 8, 2014. After that call, Bruce went back and determined that Sunoco did do third party LDAR audits as required by the Consent Decree in 2007 and 2010. Accordingly, it is AMS's analysis that the latest audit (done by PES in 2012) is otherwise compliant with the Consent Decree requirements. Also, when looking at the 2012 LDAR Audit, AMS noted that several of the alleged LDAR compliance issues were discovered during the site inspection associated with the audit (e.g. when the consultant conducted a physical walk through of the site), while other documented issues stemmed from review of LDAR reports / records that predated PES's purchase of the facility in September 2012. The issues found in October 2012 have been determined to be non-Consent Decree violations.

Accordingly, AMS will be issuing a NOV to PES shortly that contains the various non-Consent Decree LDAR violations found in the 2012 audit. AMS is also in the process of evaluating whether to issue a NOV to Sunoco for possible Consent Decree violations identified in the 2012 audit that occurred during Sunoco's ownership of the facility. There is, of course, a potential statute of limitations issue with this, as some of what was found in the 2012 audit came from review of LDAR records / reports that dated back to 2010.

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**From:** Stoltzfus, Robert [<mailto:Stoltzfus.Robert@epa.gov>]  
**Sent:** Wednesday, October 29, 2014 9:35 AM  
**To:** Dennis Yuen  
**Subject:** RE: PES - LDAR

Dennis,

Just trying to follow up on items now that I'm back in the office. I believe that Bruce has talked with you on this. What is the current status? Thanks.

Bob

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**From:** Dennis Yuen [<mailto:Dennis.Yuen@phila.gov>]  
**Sent:** Tuesday, October 07, 2014 5:04 PM  
**To:** Stoltzfus, Robert  
**Cc:** augustine, bruce; Patrick O'Neill  
**Subject:** RE: PES - LDAR

Bob and Bruce,

Would either / both of you be available to discuss this matter tomorrow?

Thanks,

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**From:** Stoltzfus, Robert [<mailto:Stoltzfus.Robert@epa.gov>]  
**Sent:** Thursday, October 02, 2014 9:31 AM  
**To:** Dennis Yuen  
**Cc:** augustine, bruce  
**Subject:** PES - LDAR

Dennis,

In response to our phone call yesterday, I have the following comments on the LDAR issue at PES' Philadelphia refinery:

1. We would need to know a little more about the specific violations before we could determine whether the identified violations would also be violations of the CD because there are specific LDAR requirements in the CD along with the audit requirements. I know that we discussed the violations a bit during our call, but I would need some additional information.
2. Paras 80 – 81 do relate to the LDAR audit requirements, but Paras 82 – 92 set forth specific LDAR requirements. If the identified violations fall under the requirements of one of those paragraphs, then there could be a violation of the CD as well as the permit. The CD also includes Stipulated Penalties for those violations at Paras 172 – 187.
3. So I think what we need to do is determine if the identified violations are covered by any of the specific LDAR requirements in Paras 82 - 92.
4. I have talked with Bruce Augustine on the LDAR issue. I don't think we've seen a copy of the audit report you referenced.

Unfortunately, my schedule complicates further discussions on this matter. Today is my last day in the office for two weeks because I will be on vacation. However, feel free to contact Bruce Augustine, 215-814-2131, to discuss the matter in my absence.

Bob

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